

ATTACHMENT B

RULES AND REGULATIONS OF THE STATE BAR OF CALIFORNIA

ARTICLE I. CLASSES OF MEMBERSHIP--ANNUAL MEMBERSHIP FEES AND PENALTIES

Section 9. Waiver of Fees & Penalties for Nonpayment of Annual Membership Fees: Excusable Inadvertence

A. The following shall constitute "excusable inadvertence" for the Secretary or Designee's ~~Waivers of Penalties~~. ~~waiver of membership fees and penalties under Section 7.c.5. The secretary or designee may waive penalties for nonpayment of annual membership fees under any of the following circumstances:~~

- (1) A request for enrollment as an inactive member is submitted prior to the date of attachment of penalty ~~for nonpayment of membership fee~~, but such request is not acted upon until after the date of attachment ~~of such penalty or within 14 days prior thereto~~, provided that, when such request is determined, the member shall be so notified promptly and thereafter the secretary or designee shall accept payment of the applicable membership fee without penalty only if it is received within 14 days of such notification.
- (2) A request for waiver ~~of fees or penalties of annual membership fee which has been~~ is submitted to ~~received by~~ the secretary, ~~secretary's designee, or Board Committee on Administration and Finance~~, or its designee prior to the date of attachment of penalty ~~for nonpayment of membership fee~~ and is ultimately denied, but such action is not taken until after the date of attachment ~~of said penalty or within 14 days prior thereto~~, provided that, when such action is taken, the member shall be so notified promptly and thereafter the secretary or designee shall accept payment of the applicable membership fee without penalty only if it is received within 14 days of such notification.
- (3) The notice of ~~fees due or~~ pending attachment of penalty ~~for nonpayment of membership fee~~ is not received in timely fashion by the member or his or her agent or delivered in timely fashion to the member's address because of:
 - (a) Failure of the State Bar to mail said notice with postage thereon prepaid at least 14 days prior to the date fixed by the board for attachment of penalty to the member at the member's last address appearing on State Bar records or provided to the State Bar in accordance ~~with the provisions of article I, section 1, of these rules and regulations~~ Business and Professions Code Sections 6002.1 and 6068(j); ~~or~~
 - (b) ~~If statements are made by the United States Postal Service or markings are placed by the United States Postal Service upon the envelope in which said notice was mailed that said notice was either misdirected or delayed in transit by the United States Postal Service, and the member declares under penalty of perjury that said notice was not received at the member's last address appearing on State Bar records or provided to the State Bar in accordance with the provisions of article I, section 1 of these rules and regulations, until on or after the day on which penalty attached~~, and payment of the applicable membership fee is received in the State Bar office prior to the day upon which the Board of Governors adopts a resolution recommending to the Supreme Court that the member be suspended for nonpayment of State Bar fees.
- (4) ~~The envelope in which pPayment was received bears a postmark of the United States Postal Service showing that it was mailed in a properly addressed envelope, postage prepaid, not later than the day on which the penalty is attached.~~
- (5) ~~The envelope in which payment was received bears no discernable postmark, was not received by the State Bar or its~~

~~agent until after the date of attachment of penalty but the check bears a date of the penalty attachment date or earlier and the member declares under penalty of perjury that said payment was deposited in a facility maintained by the United States Postal Service in a properly addressed envelope, postage prepaid, not later than the day on which the penalty is attached.~~

~~(65) An inquiry concerning whether a fee or penalty is to be paid by a member (for example, a judge retiring from the bench or a member moving out of state) due is made prior to the date of attachment of penalty, but such inquiry is not answered until after the date of attachment of such penalty or within 14 days prior thereto, provided that, when such inquiry is answered, the member shall be informed that (a) the secretary or designee shall accept (a) payment of the applicable membership fee without penalty only if it is received within 14 days of such notification; or (b) request either for enrollment as an inactive member or (c) request for waiver of membership fee or penalty may be submitted within the said 14 days after the answer to the inquiry is provided. In the event a request as described in (b) of this subparagraph (6) is received within the prescribed 14 days and determination then made thereon, the member shall then be promptly notified of such determination and thereafter the secretary or designee shall accept payment of the applicable membership fee without penalty only if it is received within 14 days of such notification.~~

~~(7) The remittance representing payment of fee was mailed in a properly addressed envelope, postage pre-paid, not later than the day on which the penalty is attached, and is not received by the State Bar or its agent; provided that, the member so states, and, as supportive evidence, submits both:~~

~~(a) A copy of the check register, or a copy of the paid item which can be secured from the financial institution where said type of payment was purchased showing that the form of payment was written to the State Bar in the amount owing not later than the day on which the penalty is attached; and~~

~~(b) A declaration under penalty of perjury stating that the amount due was mailed in a properly addressed envelope, postage prepaid, not later than the day on which the penalty is attached.~~

B. Secretary or Designee's Denial of Waivers. Notwithstanding the provisions of paragraph A of this section, the secretary or designee shall not waive penalties for nonpayment of annual membership fees under any of the following circumstances:

~~(1) The notice of fee due or pending attachment of penalty is mailed to the member at his or her address appearing upon the records of the State Bar, and is not received in a timely manner by the member, because the member changed the location of his or her address for State Bar purposes, and failed to notify the State Bar of such change of address in accordance with the provisions of article I, section 1 of these rules and regulations. Business and Professions Code Sections 6002.1 and 6068(j).~~

~~(2) The check representing payment of fee is received and then subsequently returned to the State Bar unpaid by the drawee bank because of insufficient funds in the account upon which it was drawn, or for other reason, and payment of the fee is not received by the State Bar on or before the date of attachment of penalty for late payment. This provision shall be applicable regardless of the date that:~~

~~(a) Said returned check is initially received by the State Bar,~~

~~(b) The State Bar attempts to negotiate said returned check, or~~

~~(c) The State Bar advises the member that said returned check had been returned to the State Bar unpaid.~~

~~(3) The check representing payment of fee is drawn on an attorney-client trust account.~~

~~(43) The Supreme Court order suspending the member for nonpayment of State Bar membership fees has become effective.~~

~~C. Review Following Denial of Request of Waiver. Any member whose request for waiver of penalty for nonpayment of membership fee has been denied by the secretary or designee shall have the right to request the Board Committee on Administration and Finance or its designee review such denial.~~

~~D. Waiver Requiring Board Committee on Administration and Finance or Designee Action. All requests for waiver which do not fall within the circumstances stated in subparagraphs A or B of this section shall be submitted to the Board Committee on Administration and Finance or its designee with a recommendation by the secretary, or secretary's designee for action by the Board Committee on Administration and Finance or its designee.~~